

AN ORDINANCE REGULATING THE BUSINESS OF DEALING IN USED MOTOR VEHICLES; DEFINING USED AUTOMOBILE DEALER AND USED MOTOR ~~VEHICLE~~ AND ESTABLISHING PROCEDURE ~~FOR~~ PROCUREMENT OF PERMITS TO ENGAGE IN SAID BUSINESS; FIXING THE AMOUNT OF BOND THEREFORE AND PROVIDING PENALTIES ~~FOR~~ THE VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF MDI DOES ORDAIN AS FOLLOWS:

Section 1. Definitions: For the purpose of this ordinance, a used automobile dealer is defined to be any person, firm, or corporation engaged in, or conducting or managing, or carrying on the business of buying or taking in trade for the purpose of resale, or offering for sale or consigning to be sold, or otherwise in dealing in used motor vehicles as the term "motor vehicle" is defined in the California Vehicle Code, Section 31, as amended; provided, however, that no insurance company, finance company, transportation company or other persons coming into possession of automobiles in the regular course of business, who shall sell such motor vehicles to licensed used automobile dealers, exclusively, shall be deemed a used automobile dealer.

Any person, firm, or corporation selling more than two used motor vehicles in any calendar year shall be deemed a used automobile dealer and the burden of providing that such seller is not in fact operating as a used automobile dealer shall be placed upon such seller.

A used motor vehicle is a motor vehicle which has been once sold or registered for use on the highways, or one that has been operated by any person for a distance in excess of twice the distance necessary to transport the same from the place of business of the local distributor of such motor vehicle to the place of business of the dealer. A motor vehicle used for demonstration purposes is a used motor vehicle within the meaning of this ordinance.

CHIEF OF POLICE Wherever the Chief of Police is mentioned in this ordinance, this designation shall include any other administrative officer of the City of Lodi designated from time to time by ordinance or resolution of The City Council charged with the duty of issuing permits and/or licenses to conduct business or follow any occupation in this City.

Section 2. It shall be unlawful for any person to engage in the business of used automobile dealer, as the same is defined in this ordinance, without first having received a permit in writing so to do from the Chief of Police of the City of Lodi. Any such permit shall be effective until revoked.

Any person desiring to file an application for a used car dealer may do so by filing a verified application upon forms provided for such and shall, among other things, contain the following:

1. The name, age and residence of the applicant, or if the applicant be a corporation, or partnership, the names of all its officers or partners, together with their respective addresses and all persons interested in said business, excepting stockholders of such corporation.
2. The place where applicant intends to carry on said business and the trade name, if any, under which said business is to be conducted. If applicant intends to operate under a fictitious name, proof must be shown of having complied with the provisions of Section 2466 of the Civil Code relating to the use of fictitious names.
3. A statement as to whether or not the applicant has ever engaged in a similar business prior to this application and whether or not a permit for such has ever been suspended or revoked.
4. A statement that the applicant is of good moral character and supporting evidence, or at least three references, to give proof of such statement.

Together with such other data as may be required by the Chief of police. Such application shall be accompanied by a fee of \$125.00 to be retained as compensation for the investigation and publication of the notice herein provided for.

That upon receipt of the application and the fee provided therefor, the Chief of Police shall cause notice of such application to be published once a week for two successive weeks in the official newspaper of the City prior to the time before which said application may be approved, and that such notice shall be substantially in the following form, to wit:

"NOTICE OF APPLICATION FOR PERMIT AS USED CAR DEALER

Notice is hereby given that _____ has made application to the Chief of Police of the City of Lodi for a permit to do business as a used car dealer in the City of Lodi. All persons having any knowledge or information as to why such a permit should not be granted to the applicant are notified to present such reasons in writing to the Chief of Police on or before the _____ day of _____, 19____, the date on which said matter will be determined. Further particulars concerning this matter may be obtained from the application on file with the Chief of Police.

Dated this _____ day of _____, 19____.

.....
Chief of Police of the City of Lodi."

After receipt of an application for a used car dealer's license, the Chief of Police shall cause notice thereof to be published as above provided and shall investigate the character and the business of the applicant, the location at which such applicant proposes to engage in business as specified in said application, the character of the applicant and his reasons for engaging in said business, and shall, after the expiration of 90 days, endorse his approval or disapproval on said application, and if approved, said application shall be presented to the City Clerk, together with a permit, who shall issue a license to the applicant.

The Chief of police ~~may~~ refer any such application ~~to~~ the City Council which shall hear such application at its next regular meeting, and which may continue such hearing from time to ~~time~~, and which may order the Chief of Police to grant or deny such application.

Ten days after the filing of such application, and upon the payment of such application fee, and filing of such bond, and payment of the general license fee for the period of the balance of the then current year, the Chief of Police may grant to the applicant a temporary permit to operate as a used car dealer, which temporary permit may be revoked at any time by the Chief of Police, and which temporary permit shall terminate immediately and automatically upon the granting ~~or~~ denial of such application.

In no event shall any part of the application fee ~~or~~ license fee be returned to the applicant,

That no permit, other than those hereinabove or hereinafter provided for, shall be granted by the Chief of Police prior to the expiration of 90 days after the filing of an application; provided, however, that should the Chief of Police fail ~~or~~ refuse to act upon said application after the expiration of 100 days from the date of the filing of said application, then, and in that event, said applicant may deem the same to have been denied and appeal to the City Council for a hearing upon said application.

It is provided, ~~however~~, that any person, ~~firm~~, or corporation having a license in this City at the present time as an automobile dealer ~~or~~ any firm, person, ~~or~~ corporation who now has or may hereafter obtain a franchise ~~or~~ agency in Lodi for the sale of new automobiles ~~or~~ new trucks from the manufacturers of said automobiles or trucks, ~~may~~ be issued a permit under this Section immediately upon filing the application herein specified, paying the regular license fee as specified in the General License Ordinance and filing the bond provided for in Section ~~4~~ of this ordinance.,

Section 3. Every used Automobile Dealer shall pay to the City of Lodi a license fee as specified in the General License Ordinance,

Section 4. If the Chief of Police approves of the application he shall issue a permit to the applicant upon his filing a bond executed to the City of Lodi by applicant and a surety corporation duly authorized so to do, to be approved by the City Attorney, and no license or permit **shall** be granted to any person until a bond has been given in form as provided in this Section. Said bond must be joint and several and the penalty thereof must be five thousand dollars (\$5,000.00), and must be conditioned to be paid to the said City of Lodi or any person, firm, or corporation for any direct loss suffered by dishonesty on the part of the principal in the substitution of a motor vehicle other than the one selected by the purchaser, failure through dishonesty to deliver a clear title to those legally entitled thereto, for any misappropriation of moneys or property belonging to a purchaser being made in payment of a motor vehicle sold by the principal, for any loss due to an alteration of a motor vehicle sold on the part of the principal ~~so~~ **as to** deceive the purchaser as to the year model of any motor vehicle sold. Said bond shall not be void upon the first recovery but may be sued and recovered upon from time to time by any person, firm **or** corporation aggrieved, until the whole penalty is exhausted.

The aggregate liability of the surety for any and **all** claims which may arise under such bond shall in no event exceed the amount of the penalty of such bond, regardless as to the length of time **it** shall remain in force **or** the number of renewal licenses issued thereunder,. Any person, firm **or** corporation ~~who~~ sustains an injury covered by this bond may, in addition to any other remedy that he may have, bring an action in his own name upon the bond for the recovery of any damages sustained by him; provided however, that no such action may be brought and maintained after the expiration of one **(1)** year from and after the time of the alleged dishonest act complained of may have occurred.

Section 5. Every used automobile dealer must have, in addition to his City License, a State License, and the number assigned by the Motor

Vehicle Department of the State of California to such dealer under **his** State License, must be posted and filed with the Chief of Police prior to issuance of a permit, and in the event the State Motor Vehicle Department refuses to issue to any dealer a State License, the Chief of Police must revoke and refuse to issue the City permit, **it** being mandatory that a State dealer's license is and will be necessary to retain a City permit.

Section 6 Anyone who now holds, or may hereafter hold, a permit as a used automobile dealer, and who discontinues business for a period exceeding ninety (90) days, will automatically relinquish **all** right or interest in said permit and the same shall automatically be revoked by the Chief of Police.

Section 7. The permit of each person, firm or corporation licensed as a used automobile dealer under the provisions of this ordinance shall be prominently displayed in the place of business of such dealer. There must also be displayed in a conspicuous place on the front building line of the places of business, the name of the firm, person, or corporation to whom the permit has been issued, such name to be in letters not less than six (6) inches in height, and for the same to be legible for fifty (50) feet.

Section 8. Every person, firm, or corporation operating under the provisions of this ordinance shall be held strictly responsible for the conduct of his, their, or its employees in so far as the sales of used automobiles or motor vehicles are concerned; **it** shall be his, their or its duty to see that no used automobile or motor vehicle is sold by any person or persons in or upon his, their or its premises or location, or locations, unless such person or persons have a permit as provided for in this ordinance, or is an employee of a person holding such permit,

Any violation or violations of this section shall be deemed sufficient grounds to suspend or revoke the permit of any person, firm or corporation so operating or allowing or permitting anyone to sell used cars from their premises, unless the person so selling **was** either the agent or employee of the person holding a permit, or **unless** said person, or persons, so selling has a permit of his, their or its own; and **it** shall be mandatory

upon any permittee under this ordinance to determine whether or not the person, or persons, so allowed or permitted to sell cars, from any used automobile lot or premises operated by the said permittee, has an unrevoked permit to engage in the used automobile business, or is an employee of such permittee.

Section 9. It shall be unlawful for any person, firm or corporation to engage in, conduct, manage or carry on the business of used automobile dealer within the City of Lodi, who, or which, does not first receive therefor a permit as herein provided and who, or which, does not have a fixed and determined place of business for the conduct of such business of used automobile dealer, at which place of business, he, they or it displays the vehicles offered for sale.

Section 10: In the event that any person, firm or corporation holding a permit as a used automobile dealer, as herein defined, shall violate, or cause or permit to be violated, any provisions of any other ordinance, or of any law relating to or regulating such automobile business or any law regulating the business of dealer in motor vehicles to which such used automobile dealer shall be subject, or shall conduct or carry on such business in an unlawful manner, shall cause or permit such business so to be conducted, or carried on, or shall fail to pay within thirty (30) days after the same shall have become final, any judgment entered against him arising out of the misrepresentation of any motor vehicle, or out of any fraud committed in connection with the sale of any motor vehicle, or shall be guilty of any other conduct, whether the same or of a different character than hereinabove specified, which constitutes fraud or dishonest dealing, it shall be the duty of the Chief of Police, in addition to the other penalties provided by this ordinance, to suspend or revoke the permit issued for conducting or carrying on such business. In the event any person, firm or corporation is issued a permit under the provisions of this ordinance and the same shall be revoked by said Chief of Police, no permit shall be granted to such person, firm or corporation to conduct or carry on such business within ~~six~~ (6) months after date of such revocation. No permit shall be suspended or revoked until a hearing shall have been had by the Chief of Police relating

to such suspension or revocation. Notice of such hearing shall be given in writing to the permittee and served at least five (5) days prior to the date of the hearing thereon; such service to be upon the holder of such permit, or his manager, or his agent, which notice shall state the ground of complaint against the holder of such permit, or against the business carried on by him, them or **it**, and also shall state the time when and the place where such hearing will be held. Said notice shall be served upon the holder of such permit by delivering the ~~same~~ to such person, firm, or corporation, the manager or agent thereof, or to any person in charge of the place of business or such holder. If such holder has no place of business, said notice shall be served at ~~his~~, ~~their~~, or its place of residence. In the event the holder of such permit cannot be found and the service of such notice cannot be made upon him, them or **it**, in the manner herein provided, then a copy of such notice shall be mailed, postage fully prepaid, addressed to each holder, or such permittee, at ~~his~~, ~~their~~ or ~~its~~ place of business or residence, as set forth on said permit, at least five (5) days prior to the date of such hearing. Under the provisions of this section, the Chief of Police shall have power to suspend or revoke the licenses of a corporation as to any officer acting under its license, and the license of a co-partnership as to any member acting under its license without revoking the license of such corporation or such co-partnership.

Section 11. **It** shall be unlawful for any used automobile dealer to advertise in any newspaper or through any other medium that he, they or **it** has for sale any automobile which automobile is not actually for sale at the premises at the time the advertisement is inserted in the newspaper or medium, and **it** shall be unlawful for any person, firm or corporation not to discontinue the advertisement of **any** automobile immediately upon the selling of ~~same~~. Within forty-eight (48) ~~hours~~ after any automobile that has been advertised for sale has been sold or withdrawn from sale, **it** shall be mandatory for the used automobile dealer to request withdrawal of **any** advertisement relative to **such** automobile from **any** newspaper or **any** other medium in which he, they, or **it** may have been advertiseing for the sale of such automobile prior to actual ~~sale~~.

Section 12. It shall be ~~unlawful~~ for any used automobile dealer to sell any used automobile or motor vehicle from any place other than the fixed ~~or~~ established place of business, for ~~which~~ the permit has been granted to him, them or ~~it~~, to conduct the business of selling used automobiles or motor vehicles--except that such sales may be made by a licensed used automobile dealer from the registered place of business of any used automobile dealer holding a permit hereunder.

Section 13. Every used automobile dealer, person, firm, or corporation, who, ~~or~~ which, engages in, conducts, manages or carries on the business of used automobile dealer within the City of Lodi, who, or which, does not have a fixed and determined place of business for the conduct of such business of used automobile dealer at which place of business he, they or ~~it~~, display the vehicles offered for sale, or who violates any other provisions of this ordinance, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), or by imprisonment in the City ~~or~~ County Jail for not more than six (6) months, or by both such fine and imprisonment, or if a corporation, be punished by a fine of not to exceed One Thousand Dollars (\$1,000.00).

Section 14. That any and ~~all~~ ordinances, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed; but only such parts of said ordinances as may be in conflict herewith.

Section 15. If ~~any~~ section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid ~~or~~ unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council of the City of Lodi declares that ~~it~~ would have passed this ordinance and each section, subsection, clause, sentence and ~~phrase~~ hereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 16. This ordinance shall be known and referred to as the "USED CAR DEALERS' ORDINANCE."

I hereby approve the foregoing Ordinance No. 364 this 18th day of February, 1948.

Attest:

J. B. Beasley
City Clerk

W. J. Blakely
MAYOR OF THE CITY OF LODI.

STATE OF CALIFORNIA,
COUNTY OF SAN JOAQUIN,
CITY OF LODI,

ss.

I. J. F. BLAKELY, City Clerk of the City of Lodi do hereby certify that the foregoing Ordinance No. 364 was regularly introduced at an adjourned regular meeting of the City Council of said City held on the 11th day of February, 1948 and was thereafter, on the 18th day of February, 1948, passed, adopted and ordered to print by the following vote:

AYES: Councilmen, TOLLIVER, HASKELL, LYTLE AND RINN

NOES: Councilmen, NONE

ABSENT: Councilman, RIGGS

I further certify that Ordinance No. 364 was approved and signed by the Mayor on the date of its passage and adoption.

J. B. Beasley
City Clerk

February 18, 1948.